

REMARKS

Applicant submits this Amendment in response to the final Office Action dated March 21, 2008. Reconsideration of the subject application as amended herein is respectfully requested, based upon the Request for Continued Examination filed concurrently herewith.

Applicant would like to thank the Examiner for the courtesies extended during the telephonic interview conducted on April 10, 2008. As indicated during that interview, the Examiner has taken the position that the device described in the prior art Owens reference meets “the material and structural limitations” of the claims and therefore anticipates those claims under 35 U.S.C. § 102 and/or renders those claims obvious under 35 U.S.C. §103.

Owens discloses a container, for use in an internal combustion engine, that holds a metallic substance in the form of pellets; the fuel is directed to flow through the container prior to combustion, so that the fuel contacts the pellets, and the metallic substance thereafter acts as a catalyst in the combustion of the fuel, all so as to reduce harmful emissions. It is clear that the catalytic metallic pellets themselves are not “used

up” or consumed, that is, they are neither melted nor vaporized, during this process, and that in normal use they are never released from the container, in any form.

While applicant's device also comprises a container that holds a metallic substance, and while combustion of a fuel does take place in the fireplace or stove in which applicant's device is intended for use, that is where the resemblance with the Owens device ends; the fuel which is to be burned in the fireplace or stove, by contrast, does NOT flow through applicant's container, and the metallic soot removal agent in applicant's device has no effect on, and does NOT act as a catalyst in, the combustion of that fuel. Rather, as applicant's specification makes clear (at page 3, lines 18-25), the heat of the fire in the fireplace or stove first melts, and then vaporizes, the metallic soot removal agent that is held in applicant's container, and the metallic vapors are then released (“exhausted”) from the interior of the container and are carried into the chimney, where the vapors act to clear soot and residue therefrom. Thus, it is manifest that applicant's soot removal agent is consumed as part of normal use during the useful life of the product; this is the antithesis of a catalyst, which by definition is not consumed or “used up” during the course of the reaction that it mediates.

Applicant has now amended the pending independent claims (claims 1, 19 and

20) to add limitations which emphasize these important distinctions, and it is submitted that the Owens device no longer meets the material and structural limitations of those claims, and that those claims now recite structural differences that patentably distinguish the claimed invention from the prior art.

Applicant further submits that it would not have been obvious to one of ordinary skill in this art to utilize the Owens device in a manner, as postulated by the Examiner, which is completely contrary to its teachings. Certainly, one of ordinary skill would not have been led to utilize the Owens device in a manner in which the catalytic metallic substance is “used up” or consumed (that is, heated to the point that it melts and then vaporizes), and is released from the container. Again, this is the antithesis of the function of a catalyst, which by definition is neither “used up” nor released; yet use as a catalyst is the only use for the metallic substance that is taught by Owens.

Turning now to dependent claim 7, which the Examiner further rejected as indefinite under 35 U.S.C. §112, second paragraph, applicant has amended claim 7 to clarify that it is not the combustion of the sawdust that is controlled and restricted by the composition of claim 6 (that composition itself being comprised of sawdust and a binding agent); rather, it is the consumption of the soot removal agent that is controlled

and restricted by that composition. Thus, the indefiniteness rejection has now been rendered moot.

Finally, applicant has also added a new dependent claim 22, dependent from claim 15, and applicant has amended existing claim 17 so as to depend from new claim 22. Support for the “crimping” limitation of this new claim may be found in the specification at page 4, lines 22-28, and in Fig. 5 of the drawings. No new matter is being introduced. However, by virtue of this amendment, the effective total number of claims has increased by one. Accordingly, a filing fee is due for one additional claim, and applicant remits herewith the amount of \$25.00 to cover that filing fee. The Commissioner is authorized to charge any fee deficiency, or to credit any overpayment, to Deposit Account No. 07-1730.

Applicant has responded herein to the points raised by the Examiner in the Office Action, and applicant has amended the claims in an earnest effort to place this application in condition for allowance. Accordingly, it is respectfully submitted that the subject application is now in condition for allowance, and further favorable action is earnestly solicited. The Examiner is invited to contact the undersigned attorney by

telephone if it will advance the prosecution of this case.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN
Attorneys for Applicant
270 Madison Avenue
New York, New York 10016-0601
(212) 684-3900

By: 

David S. Kashman
(Registration No. 28,725)

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